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BEFORE THE ARIZONA CORPORATION COMMISSION  
**DOCKETED**

COMMISSIONERS

JUN 05 2006

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

DOCKETED BY

RB

IN THE MATTER OF THE APPLICATION OF  
LITCHFIELD PARK SERVICE COMPANY FOR  
AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
WASTEWATER SERVICE IN MARICOPA  
COUNTY, ARIZONA.

DOCKET NO. SW-01428A-06-0021

DECISION NO. 68744

**OPINION AND ORDER**

DATE OF HEARING:

April 27, 2006

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Sallquist, Drummond & O'Connor, by Richard L.  
Sallquist, on behalf of Litchfield Park Service Company;  
and

Mr. David Ronald, Staff Attorney, Legal Division, on  
behalf of the Utilities Division of the Arizona  
Corporation Commission.

**BY THE COMMISSION:**

On January 13, 2005, Litchfield Park Service Company ("LPSCO" or "Applicant") filed an application for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide public wastewater utility service to various parts of Maricopa County, Arizona.

On February 8, 2006, the Commission's Utilities Division ("Staff") filed a notice of administrative completeness that LPSCO's application had met the sufficiency requirements of A.A.C. R14-2-610.

On February 9, 2006, by Procedural Order, the above-captioned matter was scheduled for hearing on April 27, 2006, and Applicant was ordered to publish notice of the application and hearing thereon.

On February 13, 2006, Staff filed a request for an extension of time to file its Staff Report.

On February 16, 2006, LPSCO filed a response indicating that it did not oppose this request.

1 On February 17, 2006, by Procedural Order, Staff's request was granted.

2 On March 14, 2006, Applicant filed certification that it had provided public notice pursuant to  
3 the terms of the Commission's Procedural Order.

4 On April 27, 2006, a full public hearing was convened before a duly authorized  
5 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. LPSCO and Staff  
6 appeared with counsel. At the conclusion of the hearing, the matter was taken under advisement  
7 pending submission of a Recommended Opinion and Order to the Commission.

8 \* \* \* \* \*

9 Having considered the entire record herein and being fully advised in the premises, the  
10 Commission finds, concludes, and orders that:

11 **FINDINGS OF FACT**

12 1. Pursuant to authority granted by the Commission, LPSCO<sup>1</sup> is engaged in providing  
13 public water service to approximately 11,902 customers and public wastewater service to  
14 approximately 11,817 customers in various parts of the Cities of Goodyear, Litchfield Park,  
15 Avondale and various unincorporated areas of Maricopa County, Arizona.

16 2. On January 13, 2006, LPSCO filed an application in which it seeks Commission  
17 approval to extend its wastewater Certificate to various unincorporated portions of Maricopa County,  
18 Arizona, which areas are described more fully in Exhibit A, attached hereto and incorporated by  
19 reference.

20 3. The area for which LPSCO is seeking an extension of its Certificate to provide  
21 wastewater service is comprised of six parcels of land that will add approximately one-quarter of a  
22 square mile (approximately 160 acres) to its already existing 20 square mile certificated service area.

23 4. Applicant provided notice of the application and hearing thereon in the manner  
24 prescribed by law.

25 5. Five of the six parcels for which Applicant is requesting certification are being  
26 developed by developers who plan to develop the parcels into a total of 245 residential lots. The  
27

28 <sup>1</sup> LPSCO is a wholly owned subsidiary of Algonquin Water Resources of America, Inc.

1 sixth parcel consists of three acres which is being developed for commercial use.

2 6. LPSCO projects that residential development in the area described in Exhibit A will  
3 result in approximately 120 new wastewater connections in five years.

4 7. With respect to the area sought to be certificated, LPSCO presently has an existing  
5 activated sludge wastewater treatment plan ("WWTP") with a 4.1 million gallons per day capacity  
6 that can service approximately 12,810 customers. This wastewater facility has the capacity to  
7 accommodate existing customers and future customers in the extension area.

8 8. The customers in the extension area will be provided with water service by Valley  
9 Utilities.

10 9. LPSCO employs full-time certified operators for its wastewater facility.

11 10. Since the six parcels for which LPSCO is requesting an extension for its wastewater  
12 Certificate herein are located only in unincorporated areas of Maricopa County, LPSCO will obtain a  
13 county franchise upon the issuance of an extension of its Certificate to provide service.

14 11. LPSCO will charge customers in the parcels sought to be certificated herein its  
15 existing rates and charges.

16 12. In the areas sought to be certificated herein, LPSCO will finance the extension of its  
17 collection system by means of contributions in aid of construction.

18 13. LPSCO is current on its filings with the Commission and the payment of its property  
19 taxes.

20 14. LPSCO is in compliance with the rules of the Arizona Department of Environmental  
21 Quality ("ADEQ"), the Arizona Department of Water Resources ("ADWR"), and also the rules of the  
22 Maricopa County of Environmental Services Department ("MCESD").

23 15. LPSCO will file copies of the MCESD Certificate(s) of Approval to Construct  
24 ("CAC") for the five residential parcels in the future. LPSCO previously filed a copy of the CAC for  
25 the commercial parcel included in this proceeding with its Application.

26 16. While LPSCO has the existing capacity to provide wastewater service to the area  
27 described in Exhibit A, Applicant is in the process of planning the expansion of its WWTP from a  
28 treatment capacity of 4.1 million gallons per day ("MGD") to 8.2 MGD to service a total projected

1 customer base of in excess of 19,000 customers after five years in its service area. The expansion of  
2 LPSCO's WWTP is being addressed in another pending Certificate extension proceeding in Docket  
3 No. SW-01428A-05-0022.

4 17. On October 11, 2001, LPSCO was issued an Aquifer Protection Permit ("APP") for  
5 its 4.1 MGD WWTP. Applicant is preparing to secure an amendment of its APP and its 208 Plan  
6 when it expands its WWTP to 8.2 MGD.

7 18. On December 9, 2002, the Commission issued Decision No. 65436, in which  
8 LPSCO's current rates and charges were approved. However, at that time, a proposed Off-Site  
9 Facilities Hook-Up Fee-Wastewater ("HUF") of \$1,500 for new wastewater connections in areas  
10 where a developer requested inclusion in LPSCO's certificated service area to meet the cost of plant  
11 associated with the demand placed on the system by the new development was disallowed. LPSCO  
12 was further ordered to "file, by April 15, 2003, tariffs for hook-up fees for both water and wastewater  
13 connections for Commission consideration and possible approval."

14 19. With this Application, LPSCO submitted a copy of the Wastewater Facilities  
15 Agreement ("WFA") which it had entered into with each developer for the construction of plant  
16 facilities. The proposed facilities and associated costs to extend service total \$1,303,710. The WFAs  
17 further require each developer to pay a Treatment Plant and Effluent Disposal Fee ("TPED") of  
18 \$1,500 per Equivalent Dwelling Unit ("EDU") for each new connection in an extension area.<sup>2</sup>

19 20. During the hearing, LPSCO's vice-president and general manager testified that  
20 Applicant has thus far collected \$277,123 for TPEDs from five of the six developers for the parcels  
21 described in Exhibit A, and that the developer of the remaining parcel is to pay \$120,000.

22 21. Staff found that the proposed TPED of \$1,500 per EDU appears to be based on the  
23 same calculations disallowed in Decision No. 65436 and considers the TPED to be a HUF which  
24 should not be charged or collected from developers, unless approved by the Commission.

25 22. Staff continues to recommend that LPSCO should submit a request to the Commission  
26 for its review and approval of the TPED as a HUF as ordered by Decision No. 65436 if LPSCO

27  
28 <sup>2</sup> According to the Staff Report, the TPED is to be used to fund future expansion (reserve capacity) of LPSCO's  
Palm Valley Reclamation Facility and it is to be classified as a non-refundable advance in aid of construction.

1 wishes to charge this fee.

2       23. Staff is recommending approval of LPSCO's application to extend its Certificate to  
3 provide wastewater service to the six parcels described in Exhibit A.

4       24. Staff is also recommending the following:

- 5           • that LPSCO not charge or collect the TPED fee from developers;
- 6           • that LPSCO file, within 365 days of the effective date of this Decision, with the  
7 Commission's Docket Control, as a compliance item in this Docket, a copy of its  
8 Maricopa County franchise for the extension area;
- 9           • that LPSCO file, within 365 days of the effective date of this Decision, with the  
10 Commission's Docket Control, as a compliance item in this Docket, copies of the  
11 CAC(s) issued by the MCESD to serve the parcels described above; and
- 12           • that LPSCO file, within 365 days from the effective date of this Decision, with the  
13 Commission's Docket Control, as a compliance item in this Docket, copies of its  
14 amended APP and amended Section 208 Plan that indicate approval of Applicant's  
15 expansion of its WWTP from 4.1 MGD to 8.2 MGD.

16       25. Staff further recommends that the Commission's approval of an extension of LPSCO's  
17 wastewater Certificate to provide service to the area described in Exhibit A should be rendered null  
18 and void if Applicant fails to meet any of the above conditions in the time specified.

19       26. Because an allowance for the property tax expense of LPSCO is included in the  
20 Company's rates and will be collected from its customers, the Commission seeks assurances from the  
21 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
22 authority. It has come to the Commission's attention that a number of utility companies have been  
23 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,  
24 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure LPSCO  
25 annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the  
26 company is current in paying its property taxes in Arizona.

27       27. Based upon our review of the record, we believe that Staff's recommendations herein  
28 are reasonable and should be adopted. We further believe that LPSCO should deposit all monies

1 previously collected under its unauthorized TPED into a separate account and collect no such funds  
2 in the future unless LPSCO submits its TPED in the form of a proposed tariff to the Commission for  
3 approval and is subsequently authorized to do so.

4 28. In recognition of ongoing drought conditions in Arizona, the Company shall provide  
5 the Commission within one year of the effective date of this order a detailed report describing the  
6 Company's progress toward working with the water provider for the extension area, Valley Utilities,  
7 to increase the use of effluent specifically as it pertains to golf courses, ornamental lakes and other  
8 aesthetic water features. This report shall be filed each January beginning in 2007 with the  
9 Commission's Docket Control until the Company's next general rate case.

#### 10 CONCLUSIONS OF LAW

11 1. Applicant is a public service corporation within the meaning of Article XV of the  
12 Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

13 2. The Commission has jurisdiction over the Applicant and of the subject matter of the  
14 application.

15 3. Notice of LPSCO's application as described herein was given in the manner  
16 prescribed by law.

17 4. The public convenience and necessity require and the public would benefit by the  
18 extension of LPSCO's wastewater Certificate so that its certificated service area will include the  
19 extension area as described in Exhibit A.

20 5. The Applicant is a fit and proper entity to receive an amended wastewater Certificate  
21 which encompasses the area more fully described in the extension area in Exhibit A.

22 6. LPSCO's application for the extension of its wastewater Certificate should be  
23 approved as recommended by Staff in Findings of Fact Nos. 24 and 25.

24 7. LPSCO should deposit all monies collected from developers under its unauthorized  
25 TPED into a separate account and collect no such funds in the future unless it submits a tariff and is  
26 authorized to do so by the Commission.

27 ...

28 ...

**ORDER**

IT IS THEREFORE ORDERED that the application of Litchfield Park Service Company for an extension of its Certificate of Convenience and Necessity to provide wastewater service with respect to the extension area more fully described in Exhibit A be, and is hereby, approved, provided that Litchfield Park Service Company complies with the conditions as set forth in Findings of Fact Nos. 24 and 25.

IT IS FURTHER ORDERED that Litchfield Park Service Company shall charge those customers in the extension area more fully described in Exhibit A its existing rates and charges for wastewater until further Order by the Commission.

IT IS FURTHER ORDERED that in the event Litchfield Park Service Company does not timely file copies of the required documentation as described in Findings of Fact Nos. 24 and 25, then the extension granted herein shall be rendered null and void after due process.

IT IS FURTHER ORDERED that Litchfield Park Service Company shall deposit all monies collected from developers under its unauthorized Treatment Plan and Effluent Disposal Fee into a separate account and file certification of same, within 30 days of the effective date of this Decision with the Commission's Docket Control, as a compliance item in this Docket.

IT IS FURTHER ORDERED that if Litchfield Park Service Company shall file, within 30 days of the effective date of this Decision, with the Commission's Docket Control, a proposed tariff for its Treatment Plan and Effluent Disposal Fee for Commission approval.

IT IS FURTHER ORDERED that in the event the Treatment Plan and Effluent Disposal Fee is not approved by the Commission, Litchfield Park Service Company shall then promptly refund any monies collected thereunder to the developers who paid them, and file, within 30 days of said disapproval, with the Commission's Docket Control, as a compliance item in this Docket, certification of the refund together with the names and addresses of the developers and the amounts refunded.

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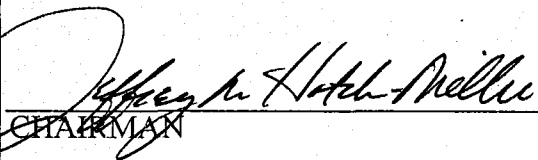
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1 IT IS FURTHER ORDERED that Litchfield Park Service Company shall annually file as part  
2 of its annual report, an affidavit with the Utilities Division attesting that the Company is current in  
3 paying its property taxes in Arizona.

4 IT IS FURTHER ORDERED that in recognition of ongoing drought conditions in Arizona,  
5 the Company shall provide the Commission within one year of the effective date of this order a  
6 detailed report describing the Company's progress toward working with the water provider for the  
7 extension area, Valley Utilities, to increase the use of effluent specifically as it pertains to golf  
8 courses, ornamental lakes and other aesthetic water features. This report shall be filed each January  
9 beginning in 2007 with the Commission's Docket Control until the Company's next general rate case.

10 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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14 CHAIRMAN

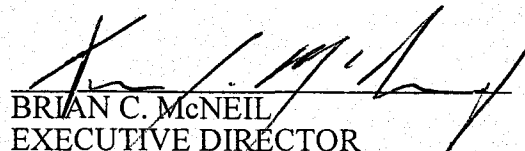
COMMISSIONER

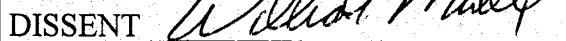
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17 COMMISSIONER

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25 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
26 Director of the Arizona Corporation Commission, have  
27 hereunto set my hand and caused the official seal of the  
28 Commission to be affixed at the Capitol, in the City of Phoenix,  
this 5<sup>th</sup> day of June, 2006.

29  
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31 BRIAN C. McNEIL  
32 EXECUTIVE DIRECTOR

33  
34 DISSENT 

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36 DISSENT \_\_\_\_\_

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SERVICE LIST FOR: LITCHFIELD PARK SERVICE COMPANY

DOCKET NO.: SW-01428A-06-0021

Richard L. Sallquist  
SALLQUIST, DRUMMOND & O'CONNOR  
4500 S. Lakeshore Drive, Ste. 339  
Tempe, AZ 85282

Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Ernest G. Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, AZ 85007

## LEGAL DESCRIPTION

That portion of the East half of the Southwest quarter of Section 11, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

BEGINNING at the Center of said Section 11;  
THENCE South 00°01'43" East, along the East line of said quarter, a distance of 1450.82 feet;  
THENCE South 89°58'09" West, a distance of 1301.90 feet to the West line of said East half;  
THENCE North 00°02'38" West, along said line, a distance of 1470.76 feet to the North line of said quarter;  
THENCE South 89°09'12" East, along said line, a distance of 1302.45 feet to the POINT OF BEGINNING.

Said parcel containing 43.67 acres gross.



Handwritten initials or signature.

Parcel 1

Exhibit A

DECISION NO. 68744

## LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 2 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 11, FROM WHICH THE SOUTHWEST CORNER THEREOF BEARS NORTH 89 DEGREES 01 MINUTES 47 SECONDS WEST, A DISTANCE OF 2603.69 FEET, AND THE TRUE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 01 MINUTES 47 SECONDS WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1301.79 FEET; THENCE NORTH 00 DEGREES 02 MINUTES 38 SECONDS WEST, A DISTANCE OF 1157.29 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 9 SECONDS EAST, A DISTANCE OF 1301.90 FEET TO A POINT ON THE NORTH SOUTH MID SECTION LINE OF SAID SECTION 11; THENCE SOUTH 0 DEGREES 01 MINUTES 43 SECONDS EAST, A DISTANCE OF 1180.04 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,521,306 SQUARE FEET (34.924 ACRES) GROSS AREA.

Parcel 2

## LEGAL DESCRIPTION

That portion of the Northeast quarter of Section 11, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Northeast corner of said Section;

THENCE North 89°18'03" West, along the North line of said Section, a distance of 1303.39 feet to the Northeast corner of the West half of said Northeast quarter;

THENCE South 00°01'27" East, along the East line of said West half, a distance of 658.54 feet to the POINT OF BEGINNING;

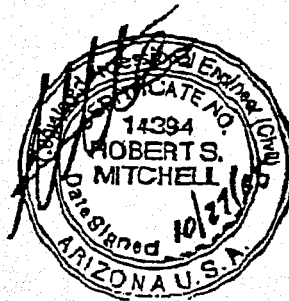
THENCE continuing South 00°01'27" East, along said East line, a distance of 1975.62 feet to a point on the South line of said quarter;

THENCE North 89°10'20" West, along said South line, a distance of 651.16 feet to a point on the West line of the East half of said West half;

THENCE North 00°02'10" West, along said West line, a distance of 1974.53 feet;

THENCE South 89°16'08" East, a distance of 651.56 feet to the POINT OF BEGINNING.

Said parcel containing 29.53 acres gross.



Parcel 3

68744

DECISION NO

## **RIVERSIDE ESTATES**

### **LEGAL DESCRIPTION**

That portion of The Southeast Quarter of Section 11, Township 2 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at the East Quarter Corner of said Section 11 said point being the.

**TRUE POINT OF BEGINNING;**

Thence South 00 degrees 00 minutes 32 seconds East along the East line of said Section 11 a distance of 1318.56 feet;

Thence North 89 degrees 06 minutes 15 seconds West a distance of 1301.91 feet;

Thence North 00 degrees 01 minutes 39 seconds West a distance of 1317.01 feet to a point on the East-West Midsection line of said Section 11;

Thence South 89 degrees 10 minutes 20 seconds East along said Midsection line a distance of 1302.32 feet;

to the **POINT OF BEGINNING.**

The above described parcel contains 1,715,709.41 Sq. Ft. (39.39 acres) more or less.

Prepared by: CMX, L.L.C.

Project No. 7038

April 28, 2004

**Parcel 4**

**DECISION NO 68744**

**DYSART VILLAGE**  
**LEGAL DESCRIPTION**

RTION OF THE SW  $\frac{1}{4}$  OF SECTION 11, T 2N, R 1 W OF THE G&SRB&M, MARICOPA COUNTY  
RIBED AS FOLLOWS:

INING AT THE WEST  $\frac{1}{4}$  CORNER OF SAID SECTION 11

CE: S  $89^{\circ} 05' 41''$  E ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 11 A  
DISTANCE OF 1302.50 FEET TO THE NE CORNER OF THE NW  $\frac{1}{4}$  OF THE SAID SECTION 11

CE: S  $0^{\circ} 00' 54''$  W A DISTANCE OF 985.53 FEET TO THE SE CORNER OF THE N  $\frac{1}{2}$  OF  
THE S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SAID SECTION 11

CE: N  $89^{\circ} 02' 59''$  W A DISTANCE OF 1302.36 FEET TO THE SW CORNER OF THE N  $\frac{1}{2}$   
OF THE S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SAID SECTION 11

CE: N  $0^{\circ} 00' 19''$  E ALONG THE WEST BOUNDARY OF SAID SECTION 11 A DISTANCE OF  
984.50 FEET TO THE POINT OF BEGINNING.

**Parcel 5**

# SITE INFO:

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## PROJECT NAME:

DYSART CROSSINGS

## PROJECT ADDRESS:

NOT YET ASSIGNED

## PARCEL NUMBER:

#501-57-006-H

## LEGAL DESCRIPTION:

THE EAST 300 FEET OF THE NORTH 464 FEET OF THAT PART OF THE NORTHEAST QUARTER OF SECTION TEN (10), TOWNSHIP TWO (2) NORTH, RANGE ONE (1) WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 10;

THENCE SOUTH 0 DEGREES 01 MINUTES 45 SECONDS WEST ALONG THE EAST LINE OF SAID SECTION 10, A DISTANCE OF 708.00 FEET, TO A POINT FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 10 BEARS SOUTH 0 DEGREES 01 MINUTES 45 SECONDS WEST A DISTANCE OF 1,917.52 FEET; THE POINT OF BEGINNING.

THENCE NORTH 89 DEGREES 10 MINUTES 45 SECONDS WEST, A DISTANCE OF 905.16 FEET;

THENCE SOUTH 0 DEGREES 01 MINUTES 45 SECONDS WEST, A DISTANCE OF 441.93 FEET TO A POINT ON THE NORTH LINE OF RANCHOS DE LOMA UNIT ONE, AS RECORDED IN BOOK 106 OF MAPS, PAGE 39 OF MARICOPA COUNTY, RECORDS, SAID POINT BEING THE CENTERLINE OF 132ND AVENUE;

THENCE SOUTH 89 DEGREES 10 MINUTES 45 SECOND EAST, A DISTANCE OF 25 FEET TO A CORNER OF SAID RANCHOS DE LOMA UNIT ONE;

THENCE SOUTH 0 DEGREES 01 MINUTE 45 SECONDS WEST, A DISTANCE OF 205.60 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 89 DEGREES 03 MINUTES 55 SECONDS, A RADIUS OF 15.25 FEET, A DISTANCE OF 23.70 FEET;

THENCE SOUTH 89 DEGREES 02 MINUTES 10 SECONDS EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF OCOTILLO ROAD AS SHOWN ON THE PLAT OF SAID RANCHOS DE LOMA, A DISTANCE OF 865.19 FEET;

THENCE NORTH 0 DEGREES 01 MINUTES 45 SECONDS EAST PARALLEL TO AND 55.00 FEET WEST OF THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 10, A DISTANCE OF 664.72 FEET TO THE POINT OF BEGINNING.

Parcel 6